

# **PLAINTIFF'S EXHIBIT CC**

PURSUANT TO PROTECTIVE ORDER

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1           IN THE UNITED STATES DISTRICT COURT  
2           NORTHERN DISTRICT OF ILLINOIS  
3           EASTERN DIVISION  
4

5           LATHIERIAL BOYD,                         )  
6    )  
7           Plaintiff,                                 )  
8    )  
9           vs   ) No. 13 C 7152  
10    )  
11           CITY OF CHICAGO, et al.,                 )  
12    )  
13           Defendants.                                 )  
14

15   The deposition of RICHARD ZULEY called  
16   for examination pursuant to notice and pursuant to  
17   the Federal Rules of Civil Procedure for the United  
18   States District Courts pertaining to the taking of  
19   depositions taken before JO ANN LOSOYA, Certified  
20   Shorthand Reporter within and for the County of Cook  
21   and State of Illinois at 1901 West Butterfield Road,  
22   Downers Grove, Illinois, on December 2, 2015 at the  
23   hour of 9:00 o'clock a.m.  
24

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1           A.     We were aware of it and it was discussed  
2     at roll call where they would discuss where they  
3     were in the investigation, but we didn't get  
4     specifically assigned to do anything until that day.

5           Q.     Are you talking about you and Defendant  
6     Murray?

7           A.     Yes.

8           Q.     Would you use the term "lead detective"  
9     to describe your role?

10          A.     I'm sorry.

11          Q.     Would you use the term "lead detective"  
12     to describe your role in the case?

13          A.     No.

14          Q.     Was it your case?

15          A.     No.

16          Q.     So, who was in charge of the case? The  
17     sergeants?

18          A.     Yeah. We didn't have a term lead  
19     detective. That's a television thing. There may be  
20     something today but.

21          Q.     If other defendants in the case have used  
22     that term, it's inaccurate?

23          A.     It may be their feeling, but we didn't  
24     have a title called lead detective.

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1 Q. Who did they obtain the name Rat from?

2 A. Ricky Warner.

3 Q. And do you know when they -- when that  
4 was done?

5 A. A couple of days before, 8th, 9th,  
6 somewhere in there.

7 Q. How many times did you interview Ricky  
8 Warner?

9 A. 11th, 12th -- three, maybe four times. I  
10 think there was also a social visit.

11 Q. So I believe you testified at the post  
12 conviction that you interviewed him four times and  
13 then you made a social visit. Does that seem  
14 correct?

15 A. That's probably close, three or four.

16 Q. And the very first contact you made with  
17 him was on the 11th?

18 A. I believe that's the day.

19 Q. So even though you testified pretrial and  
20 at trial that it was on the 7th or 8th, that's  
21 incorrect?

22 A. That's incorrect.

23 Q. And when did you realize that was  
24 incorrect testimony?

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1 A. Probably after reviewing the file.

2 Q. When? Like, in relationship to this  
3 case?

4 A. Yes, in relationship to this.

5 Q. You realized that it must have been on  
6 the 11th that you went to see him?

7 A. Yes.

8 Q. And you had testified previously that you  
9 were the person who obtained the nickname Rat but is  
10 that not true or incorrect? Is that incorrect?

11 A. That's incorrect.

12 Q. You also realized that now, right?

13 A. Yes.

14 Q. And that it was, you say, Thezan and  
15 Sobolewski?

16 A. Well, I'll qualify that, too. I did  
17 obtain the name Rat, but it was after it had already  
18 been obtained by Sobolewski and Thezan and the other  
19 guys.

20 Q. So the testimony you gave previously  
21 under oath that you had obtained the name Rat is  
22 incorrect also?

23 A. Well, it depends on how you interpret it.

24 Q. That you were the first one that obtained

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1 it.

2 A. If I testified to that, I was wrong.

3 Q. And why would you have not been aware of  
4 the fact that Thezan and Sobolewski said they  
5 obtained the name Rat?

6 A. Well, I was aware that they had obtained  
7 the name Rat because it was in the file.

8 Q. Right. You misspoke?

9 A. I misspoke, and I also believe what I did  
10 was when I reviewed the file, the second page from  
11 their report, I had misput it into my report. The  
12 way they wrote in their format was very similar to  
13 mine and I think I read it as if it was my report.

14 Q. And so when we go through the different  
15 reports, then you can point that out to me, okay,  
16 that page --

17 A. Okay.

18 Q. -- that you think got attached to your  
19 report.

20 A. Sure.

21 Q. Okay. So let's talk about on the 11th.  
22 Who do you get the assignment from to make contact  
23 with Ricky Warner?

24 A. The shift supervisor, the sergeant.

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1 A. Yes.

2 Q. That's a Saturday?

3 A. About 10:30 in the morning.

4 Q. Okay. Beautiful day?

5 A. Beautiful day.

6 Q. Tell me what you remember.

7 A. I remember talking to him and asking  
8 basically the same questions and getting essentially  
9 the same answer. He didn't know where it was. I --  
10 All right. Story telling time now.

11 I had this thing that I used to do  
12 sometimes that seemed to be pretty good at disarming  
13 people and encouraging them to continue to speak.  
14 And what I would say, and what I did say in this  
15 case, was that I was a pretty good ballplayer when I  
16 was a kid but I had a terrible time finding the  
17 ballpark; and if people could help me find the  
18 ballpark, I could play baseball. And I said this is  
19 much the same. I said, if you can help me get into  
20 the ballpark, I can play baseball. I said if you  
21 can give us the information we're looking for, we  
22 can move forward. And he said -- in essence, he  
23 said, I don't want to get involved, I can't get  
24 involved. And I said, I'll keep you out of it. No

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1 problem. So he then gave us the name Rat and  
2 Lathierial Boyd.

3 Q. Tell me, specifically, after you told him  
4 about, you know, the baseball --

5 A. The baseball story.

6 Q. -- right, the baseball story, did you --  
7 was your specific question to him: Do you know who  
8 Rat is?

9 A. Asked him to tell us who Rat was.

10 Q. Right.

11 A. Yes.

12 Q. And then that's when he tells you it was  
13 Lathierial Boyd, that's the only Rat that he knows?

14 A. Yes.

15 Q. All right. He doesn't tell you that he  
16 knows that Lathierial Boyd, Rat, is the shooter,  
17 right?

18 A. No. No.

19 Q. He makes that link, though, on the 11th  
20 for you?

21 A. Yes.

22 Q. Then do you remember any other  
23 conversation with him at that point?

24 A. Offhand, no. There may have been, but I

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1 you get the name Lathierial Boyd about his criminal  
2 background?

3 A. Learned that he had a criminal  
4 background. He had a conviction for narcotics and a  
5 couple of other things on there and --

6 Q. What did you learn about his gang  
7 affiliation?

8 A. I don't recall anything about a gang  
9 affiliation. If there was, I don't recall it.

10 Q. That was something that Defendant  
11 Schorsch had already checked out, right, the gang  
12 affiliation?

13 MS. FORDYCE: Objection, speculation.

14 BY MS. ZELLNER:

15 Q. Do you know?

16 A. I don't know.

17 Q. But you were reviewing their reports,  
18 correct?

19 A. I reviewed some reports. I didn't review  
20 every report.

21 Q. Was part of the protocol of an  
22 investigation on a homicide with these particular  
23 facts, shooting 2:00 in the morning in front of a  
24 nightclub, to check with the gang unit?

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1           Q.     So after you got this identification, I  
2 just want to be clear then that when you testified  
3 at the trial that you were the one who first learned  
4 about the Rat license plate -- is that true? Were  
5 you the one that first learned about the Rat license  
6 plate?

7           A.     I believe that the other detectives, when  
8 they talked to Mr. Warner, learned that information.

9           Q.     Right. In fact, they did a report  
10 indicating they learned about the license plate on  
11 March the 8th. Are you aware of that?

12          A.     Yes.

13          Q.     Right. So, you didn't have anything to  
14 do with the identification from Herbert Warner of  
15 that license plate, right?

16          A.     No, other than he repeated it to us.

17          Q.     Right. But you were not the one that got  
18 that information initially?

19          A.     No.

20          Q.     Did you know when you went and  
21 re-interviewed Herbert Warner on 3-11 that the other  
22 detectives had already confirmed there was no Rat  
23 license plate issued by the Secretary of State?

24          A.     I believe so. I believe that information

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1 was already available, yes.

2 Q. Right. So you proceed -- that day, on  
3 the 11th, which we know is a Sunday, you then after  
4 your interview with James Fleming, Ricky Warner --  
5 And by the way, at the hospital, after the interview  
6 is finished, what do you observe the nurse do? Does  
7 she reconnect Mr. Warner to the ventilator? What do  
8 you observe her doing?

9 A. I don't know that she ever disconnected  
10 him from the ventilator.

11 Q. So he was -- so the ventilator -- you  
12 never saw her disconnect it. It was running the  
13 whole time?

14 A. Yeah. I never -- I couldn't comment. I  
15 don't know.

16 Q. You say that no one made notes of the  
17 specific things that Warner was saying, right? I  
18 think that is what you were saying before.

19 A. Yes.

20 Q. And then do you have any further  
21 conversation with the nurse before you leave or do  
22 you just say thank you very much and you leave?

23 A. I believe that's what we did.

24 Q. How would you describe Ricky Warner's

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1 A. Yes.

2 Q. Does Mr. Boyd ask you if you would  
3 conduct a lineup?

4 A. No. That was our standard protocol.

5 Q. So, what time does the lineup occur?

6 A. Maybe 9:00 or 10:00 in the evening. I'm  
7 not sure, but it was later. It took quite a while  
8 to line up everybody and we also out went out to  
9 find Kerry Kelly.

10 Q. I'm assuming you bring Kerry Kelly back,  
11 right?

12 A. Yes.

13 Q. So you got Kerry Kelly and the lineup is  
14 about 10:00 o'clock at night, right?

15 A. Approximately, yes.

16 Q. You get the witnesses from the scene,  
17 correct?

18 A. Yes.

19 Q. And you're aware of the descriptions  
20 given of the shooter, right, at the scene?

21 A. I am.

22 Q. Yeah. And you know that Jennifer Bonanno  
23 gives a description of the shooter, right, that's --

24 A. I believe she gave some description, yes.

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1 Q. 5'8", large jaw, dark skin. Do you  
2 remember all that?

3 A. I don't recall what she said.

4 Q. But you would have known that of course  
5 before doing the lineup?

6 A. It was in the report, yes.

7 Q. The report doesn't indicate that she was  
8 drunk or intoxicated, right?

9 A. No, it does not.

10 Q. So, the lineup happens. So you're in one  
11 room with the witnesses, correct?

12 A. Yes.

13 Q. And you have how many, nine, before  
14 Herbert Warner?

15 A. I think that's right.

16 Q. Right. And then there's another officer  
17 inside the room with the subjects?

18 A. Subject.

19 Q. Right. And the lineup begins, right?

20 A. Yes.

21 Q. Okay. So, none of the witness are able  
22 to pick out Mr. Boyd, right?

23 A. That's correct.

24 Q. And two of the witnesses indicate if they

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1 had to pick anyone out, that they would have picked  
2 out the gentleman wearing the green or yellow  
3 T-shirt?

4 A. I never heard anybody say that.

5 Q. They didn't identify him as the shooter  
6 but the shooter looked more like him?

7 A. I never heard anybody say that.

8 Q. Jennifer Bonanno told you that it  
9 definitely was not -- Lathierial Boyd was definitely  
10 not the shooter?

11 A. She never said that.

12 Q. So she never told you that?

13 A. Nope.

14 Q. When she testified under oath that she  
15 told you that, she was just lying?

16 A. Or misremembering what she thought she  
17 said.

18 Q. Well, I mean, that's a pretty huge  
19 misremembering, wouldn't you agree?

20 A. I hate to call anybody a liar.

21 Q. But she testified to that, you're aware  
22 of that, in the post conviction?

23 A. Yes.

24 Q. You're aware that she actually identified

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1       a Jamaican nicknamed Smith or nicknamed Cheesy as  
2       the shooter in a WGN interview?

3           A.     No, I'm not aware of that.

4           Q.     Never watched the WGN interview?

5           A.     Occasionally, but I never saw that.

6           Q.     You never saw her actually identify  
7       Cheesy as a shooter?

8           A.     No.

9           Q.     So how long does a lineup take?

10          A.     Each person -- because they go up  
11       individually -- a couple of minutes. There's  
12       certain facing movements that are done by the  
13       subjects. They're asked -- the witnesses are asked  
14       to wait for the process to finish before they make  
15       any kind of a decision or determination, two or  
16       three minutes each.

17          Q.     And you would agree that having nine  
18       witnesses to a shooting is a lot of witnesses,  
19       right?

20          A.     That's a lot of witnesses.

21          Q.     When none of them could identify  
22       Mr. Boyd, did that shake your confidence at all in  
23       the arrest?

24          A.     No.